

RULES AND REGULATIONS OF THE STATE BAR OF CALIFORNIA

ARTICLE I. Classes of Membership--Annual Membership Fees and Penalties

§ 1. Registration of Members

- A. The secretary or designee shall keep a record, as to each member, of his or her office address and telephone number; the date of his or her admission to practice in California; the name of the court admitting him or her, and the district if admitted by a court of appeal; the date of his or her registration and his or her class of membership; the date of his or her transfer from one class to another, if any; the date and period of his or her suspension, if any; and such other data as required by statute or as may be required from time to time by the Board of Governors.

Every member shall register by signing a registration card which, in substance, shall contain the following information:

- (1) Surname and given name or names.
 - (2) Office address and telephone number, or, if none, other address for State Bar purposes.
 - (3) Places and dates of admission prior to admission in California.
 - (4) Date and place of birth.
- B. A member shall maintain on the member's registration records of the State Bar the member's current office address and telephone number or other address for State Bar purposes. Within 30 days after any change therein, the member shall file a change of office address and telephone number with the State Bar. Said change of office address and telephone number shall be filed either in the form provided in the annual fee statement or separately in writing, and shall contain the member's full name, old and new addresses.

(1) Paper requirements for Changing Member Information

- (a) To change the member name and or address maintained by the State Bar or to request a replacement bar card or wall certificate, a member must make a written request and provide proof of identity to the State Bar of California in a manner acceptable to the State Bar of California.

(i) Acceptable Name Change Documents

To establish proof of identity a member shall provide a photocopy of at least two documents in the Old name and two documents in the New name, one of which may be the members' bar card. Other acceptable documents include:

- (A) Driver's license, or other record maintained by the Department of Motor Vehicles;
- (B) Passport;
- (C) Marriage certificate;
- (D) Copy of a court order, adoption certificate;
- (E) Military identification card.

(ii) Acceptable Address Change Documents

To change an address, a member must establish proof of his or her identity by providing a photocopy of one of the documents listed in "acceptable name change documents."

- (2) To change the member telephone number, fax number, or e-mail address a signed written request must be submitted.

C. Electronic Password-protected Identity System for Changing Member Information

The identity authentication procedures available at the State Bar Web site may be used by a member to request a change in the State Bar record of his or her address, telephone number, fax number, or e-mail address or to request a replacement bar card or wall certificate. Compliance with these procedures constitutes acceptable proof of identity.

- D. A member's home or residence address, to the extent that address appears in the Members Address Change History maintained by the Secretary or designee, may be deemed confidential and therefore exempt from public disclosure. The member must request confidentiality for that information and maintain a current non-confidential address of record for State Bar purposes as required by paragraph A of this section.

§ 2. Enrollment as an Inactive Member

Any member of the State Bar not under suspension, who does not desire to engage in the active practice of the law in this state, may, upon written request, be enrolled as an inactive member. The secretary or designee shall, in any case in which to do otherwise would work an injustice, and subject to any directions which may be given by the board or by the president and the chair of the Board Committee on Administration and Finance, permit retroactive enrollment of inactive members. No member of the State Bar practicing law in this state, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member. Nothing in this section shall prohibit the enrollment as an inactive member of a member employed in a quasi-judicial capacity by any governmental agency if he or she does not otherwise engage in the practice of law or hold himself or herself out as being entitled to practice law.

A member employed or engaged in the capacity of referee, hearing officer, court commissioner, or in a similar capacity, shall be deemed to be employed in a quasi-judicial capacity.

§ 3. Transfer from Inactive to Active Membership

Any inactive member not under suspension may be enrolled as an active member upon written request. Upon the filing of such request on or before June 30 of any year, and the payment of any unpaid fees and penalties for prior years and the full annual membership fee for an active member for the current calendar year, less any membership fee paid by him or her as an inactive member for such year, the applicant shall be immediately transferred from the inactive roll to the active roll. If the request for transfer from inactive to active membership is filed subsequent to June 30 of any year the applicant shall be immediately transferred from the roll of inactive members to the roll of active members upon the payment of any unpaid fees and penalties for prior years and for the current year and of one-half the difference between the fee for active and inactive membership for said year.

§ 4. Privileges of Inactive Members

An inactive member shall not vote in any election or plebiscite conducted by the State Bar. He or she may attend meetings of the State Bar, participate in the debates at such meetings, may be appointed by the Board of Governors upon any committee other than a local administrative committee provided under Business and Professions Code section 6140, and shall be entitled to receive the official publications of the State Bar.

§ 5. Payment of Organization Fee and Penalties

A person eligible to membership on November 18, 1927, may register only upon the payment of the organization fee of \$ 3 and all penalties attaching to the delinquent payment thereof.

§ 6. Annual Membership Fees

- A. The Board of Governors shall each year fix the annual membership fee for active and inactive members. The sum of 50 cents, or other sum as the board may designate for any particular calendar year, of each active and inactive fee is allocated as the annual subscription of each member to the official publications of the State Bar.
- B. Annual membership fees cover the calendar year and are payable on or before the 1st of February in each year. Members newly admitted to practice shall pay the annual membership fee of an active member. They shall also pay the State Bar a one time fee in the amount of \$ 1.00, which shall be paid by the State Bar to the Clerk of the Supreme Court of California for maintenance of the Roll of Attorneys and issuance of Certificates of Admission. Both of these fees shall be paid at the time of admission and registration.
- C. Any person first admitted to practice law in California on or before the 30th day of June of any year, and any judge of a court of record of California, whose incumbency as such terminates on or before the 30th day of June of any year, shall pay the full membership fee for that year; except that any person first admitted to practice law in California on or between the 1st and 30th days of June of any year shall pay, for that year, one-half of the annual membership fee.

- D. Any person first admitted to practice law in California after the 30th day of June of any year, and a judge of a court of record in California, whose incumbency as such terminates after the 30th day of June of any year, shall pay, for that year, one-half of the membership fee.
- E. Any person first admitted to practice law in California after the 30th day of November of any year, and a judge of a court of record in California, whose incumbency as such terminates after the 30th day of November of any year, shall have the annual active membership fee waived.
- F. Costs assessed pursuant to Business and Professions Code, section 6086.10, against a member of the State Bar who has been publicly reprovod or suspended shall be added to and become a part of the membership fee of the member, for the next calendar year. A member of the State Bar who is suspended for an entire calendar year by the Supreme Court as a result of disciplinary proceedings is not required to pay the annual membership fee for that year. Upon the expiration of any suspension resulting from disciplinary proceedings, a member of the State Bar is required to pay full membership fees for the current year plus the assessed costs, unless such suspension began prior to the first day of January of any year and terminated after the 30th day of June of that year, in which case the fee required shall be one-half of the annual membership fee for that year plus the assessed costs.
- G. No part of the annual membership fees shall be refunded by reason of death, resignation, entering office as a judge of a court of record, transfer, suspension or disbarment; provided, however, that the secretary or designee, upon request, shall refund a fee for the current year paid on or before January 31 if the member dies or becomes a judge of a court of record on or before said date.
- H. The State Bar, at its option, may retain and accept payments of membership fees, penalties and costs, which are less than the full amount due and owing. The retention and acceptance of such partial payments shall not discharge or constitute a waiver of the balance, and a member who fails to pay such balance shall be suspended from membership in the State Bar, as provided in Business and Professions Code, section 6143, and in these rules.

The secretary or designee, with the prior approval of the president and chair of the Board Committee on Administration and Finance, is authorized to refund the difference between the amount of the annual membership fee of an active member and that of an inactive member in those instances in which an active member has paid the annual membership fee for a calendar year and subsequently in the same calendar year requests enrollment as an inactive member as of January 1 of that year, provided that the member has been continuously eligible for enrollment as an inactive member during said calendar year.

- I. If the last day for the performance of any act provided or required by the rules to be performed within a specified period of time shall be a Saturday, Sunday, or holiday observed by the State Bar, then such period is hereby extended to and including the next working day.
- J. Pursuant to Business and Professions Code, section 6140, subdivision (b), a member may make online payment of annual membership fees by credit card or other electronic means on the State Bar's Web site at www.calbar.ca.gov. Payments must be made online no later than the times provided by these rules and shall include any additional fee that may be charged for the online payment.

§ 7. Waiver of Annual Membership Fees and Penalties

- A. Any member, or any member's legal representative, spouse, or other person familiar with the pertinent facts, may request a waiver of payment of the member's annual membership fee and/or penalties by submitting an application in a form satisfactory to the secretary or designee and shall bear the burden of documenting good cause in support of such request.
- B. Waivers shall be considered separately for each calendar year. The secretary or designee shall grant a request to continue a waiver into a subsequent calendar year upon a showing satisfactory to the secretary or designee that those facts upon which the waiver for the preceding year was granted still obtain. Multiple-year, retroactive waivers may be granted only by the Board Committee on Member Oversight or its designee or successor.
- C. The following may constitute good cause for the secretary or designee to waive the payment of the annual membership fee and/or penalties by a member:
 - 1. A member is on inactive status and is in either "poor financial condition" or "poor medical condition," as herein defined.
 - (a) "Poor medical condition:" This term, as used in these rules, shall mean either a: (i) physical and/or (ii) mental condition which prevents or greatly impairs the member from pursuing a livelihood for the year the waiver is requested.
 - (b) "Poor financial condition:" This term, as used in these rules, shall mean that the income of the member from all sources does not exceed \$20,000 annually for the year the waiver is requested.
 - 2. A member is a retired judge who is assigned by the Chief Justice pursuant to article VI, section 6, Constitution of California, for a minimum of 90% of the calendar year to and including the date of the application and such assignments are expected to continue at least at that rate.
 - 3. Objective and reasonably certain evidence is present that a member is deceased.
 - 4. Staff error has caused the member to incur the fee assessment sought to be waived.
 - 5. The fee assessment sought to be waived is a penalty that is less than \$100.00 and is due to excusable inadvertence as defined under Article I, section 9 of these Rules.
 - 6. The member is inactive and attained the age of 70 years or more in the preceding calendar year.
 - 7. The member serves full time as a Federal Magistrate Judge, a California Court Commissioner, a California Court Referee, a U.S. Appellate Court Commissioner, or in another capacity to which the member is appointed by state or federal courts of record to perform judicial functions. The member seeking such a waiver must submit a written request for waiver by February 1st of the membership year, which shall remain in effect until the member provides written notice within thirty (30) days of the expiration or

cessation of his or her judicial status justifying the waiver of fees.

- D. A member whose request for waiver of annual membership fees and/or penalties has been denied by the secretary or designee shall have the right to request the Board Committee on Member Oversight or its designee or successor to review such denial. In order for such a request to be considered during the current billing year, the request must be received in the State Bar office on or before June 15th. Any request received after June 15th will be considered in due course; however, there will be no abeyance period while the determination is pending and all outstanding fees and/or penalties will remain due and owing. Non-payment of these fees and/or penalties may result in the member's suspension.
- E. The Board Committee on Member Oversight or its designee or successor shall consider the pertinent facts in determining whether there is good cause to grant a waiver request, including, without limitation, those presented by or on behalf of the member, the public purpose served by the fee and/or penalty and, in the case of an active member, his or her eligibility for inactive membership and physical and mental ability to execute the documents necessary for enrollment as an inactive member and the likelihood of enrollment as such a member pursuant to section 6007 of the Business and Professions Code. In considering whether to renew a waiver submitted to it for a subsequent calendar year, the Board Committee on Member Oversight or its designee or successor may consider the facts pertinent to a renewal, including, without limitation, those presented by or on behalf of the member, those specified in the preceding paragraph, the facts which constituted good cause for the waiver granted to the member for the preceding calendar year, and the probability that those facts have materially changed in the interim.
- F. In applying the good cause standard, the Board Committee shall be mindful of the important public policy supporting the assessment of membership fees and/or penalties and that waivers of or exceptions to this public policy should be granted in very limited circumstances, where substantial justification is presented and where the requesting member has not caused the asserted need for the exception. Waivers of disciplinary costs awarded under Business and Professions Code Section 6086.10, monetary sanctions awarded under Business and Professions Code Section 6086.13, Client Security Fund disbursements and costs recouped under Business and Professions Code Section 6140.5, mandatory fee arbitration award penalties and costs under Business and Professions Code Section 6203(d)(3), Minimum Continuing Legal Education (MCLE) noncompliance or reinstatement penalties under Business and Professions Code Section 6070 and the State Bar's MCLE Rules and Regulations which may have been added to the membership fee assessment shall not be waived under these rules.
- G. In reviewing requests arising under Paragraph D above, the Board Committee and/or the Board of Governors shall consider waiver requests under \$1,000 per member on a consent agenda or equivalent basis. Waiver requests of \$1,000 or more per member shall be agendized for individual action. Once waivers granted by the Board and/or Board Committee under Paragraph D in any fiscal year total \$50,000, all further requests warranting Board or Board Committee review shall be agendized for individual Board action.

§ 7.1. Low Income Fee Scaling Plan

- A. The Board of Governors hereby authorizes the scaling of annual membership fees solely with

respect to active members' payments due and owing on February 1 of the year for which the fee is payable, pursuant to Business and Professions Code section 6140.

- B. An active member who provides the State Bar with his or her most recent federal tax return Form 1040, 1040A, 1040EZ, or some other form of acceptable documentation, including but not limited to a declaration under penalty of perjury, demonstrating annual individual earned income of less than forty thousand dollars (\$ 40,000) derived from the provision of arbitration, mediation, referee, or other dispute resolution services, and, generally, from the practice of law shall presumptively qualify for a waiver of 25 percent (25%) of the annual membership fee. Payment of the reduced fee under this subdivision must be included together with the required documentation and received by the State Bar on or before the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable.
- C. An active member who provides the State Bar with his or her most recent federal tax return Form 1040, 1040A, 1040EZ, or some other form of acceptable documentation, including but not limited to a declaration under penalty of perjury, demonstrating annual individual earned income of less than thirty thousand dollars (\$ 30,000) shall presumptively qualify for a waiver of 50 percent (50%) of the annual membership fee. Payment of the reduced fee under this subdivision must be included together with the required documentation and received by the State Bar on or before the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable.
- D. An active member who, as of February 1 of the year for which the fee is payable, is employed on a continuous full-time basis by a "qualified legal services project" and/or "qualified support center" pursuant to Business and Professions Code section 6210 et seq., which legal services project or support center (employer) receives State Bar Legal Services Trust Fund grants, and which employer pays the member-employee's annual membership fees on the member's behalf, shall have his or her annual membership fees reduced to 75 percent (75%) of the active fee rate. To qualify pursuant to this subdivision D, the member must, on or before the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable, submit a declaration from the chief executive officer of the legal services project or support center (employer) stating under penalty of perjury that the employer (1) is a "qualified legal services project" and/or a "qualified support center" pursuant to Business and Professions Code section 6210 et seq.; (2) receives State Bar Legal Services Trust Fund grants; and (3) pays the member-employee's annual membership fees on the member's behalf. Payment of the reduced fee under this subdivision must be included together with the required declaration and received by the State Bar on or before the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable.
- E. The materials and payment required to be submitted pursuant to this Section 7.1 will be considered to have been received by the State Bar on or before the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable under any of the following circumstances:

- (1) The materials and payment are actually received at the State Bar prior to the close of business

on the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable.

- (2) The envelope in which the materials and payment are received is a properly addressed envelope and bears a postmark of the United States Postal Service showing that it was mailed postage prepaid, not later than the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable; postage metered dates are not acceptable.
 - (3) The envelope in which the materials and payment were received bears no discernable postmark and was not received by the State Bar until after the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable, but the member declares under penalty of perjury that the materials and payment were deposited in a facility maintained by the United States Postal Service, in a properly addressed envelope, postage prepaid, not later than the date fixed by the Board of Governors for attachment of penalties pursuant to article 1, section 8, of these rules and regulations of the year for which the fee is payable.
 - (4) Members who are billed membership fees for the first time (a.k.a. new admittees) shall have a waiver (fee reduction) documentation and payment deadline established that is eight (8) weeks from the date of their initial fee statement; this deadline shall be determined and printed on their initial fee statement.
- F. Members who timely submit the materials and payment required pursuant to Section 7.1, but who the State Bar for any reason whatsoever determines are ineligible to participate in the Fee Scaling Plan, must submit instead their full membership dues pursuant to Business and Professions Code section 6140, according to the regular membership payment schedule. Such members shall be subject to any late payment penalties that may be fixed by the Board of Governors should they fail to remit full payment on or before the date on which the Board of Governors determines that penalties shall attach.
- G. Any member whose scaling request is denied by the secretary or designee, shall have the right to request review of that denial by the Member Oversight Committee of the Board (or any successor committee) or its designee.

§ 7.2. Waiver of 2005 and/or 2006 Membership Fees and Penalties for Members of the Armed Services

- A. The secretary shall waive, as provided in this section, the 2005 and/or 2006 membership fees and penalties for any member of the State Bar who is also a member of the reserve components of the armed forces ordered to report for active duty as a result of Operation Iraqi Freedom or the conflict in Afghanistan.
- B. Definitions:
- (1) Active Duty: Full-time service in the active military, other than for training.
 - (2) Reserve Components of the Armed Forces: The Army National Guard, the Army Reserve,

the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve.

- (3) Operation Iraqi Freedom or Afghanistan: That mobilization of the U.S. military troops for duty related to U.S. military activity in the Middle East, on or after February 2003.
- C. The 2005 and/or 2006 annual membership fees and penalties shall be waived for those members placed on active duty status for a period of more than 30 days as the result of Operation Iraqi Freedom or service in Afghanistan, upon:
- (1) The filing, by any member, member's spouse, relative, law partner or associate, or legal representative, of a written request for waiver of the 2005 and/or 2006 membership fees and penalties;
 - (2) The submission of a copy of the Order to report for active duty for a period of more than 30 days; or
 - (3) The submission of a copy of the Order to report for active duty and a certified declaration by a JAG officer that the member has served on active duty for a period of more than 30 days.
- D. Any 2005 and/or 2006 annual membership fees/penalties paid prior to the enactment of this rule shall be refunded, upon receipt of a written request from any member, member's spouse, relative, law partner or associate, or legal representative, received or postmarked by a date certain to be designated by secretary, provided all other eligibility requirements set forth in subparagraph C above are met.
- E. This section shall remain in effect only until December 31, 2006, and is repealed as of that date, unless otherwise acted upon by the Board of Governors.

§ 8. Penalties for Nonpayment of Membership Fees

On a date to be fixed each year by the Board of Governors, penalties shall attach to all delinquent membership fees due from members of the State Bar in such amount or amounts as the board shall determine, pursuant to section 6143 of the Business and Professions Code.

On February 2, 1928, a penalty of \$ 3 was due from all unregistered and unenrolled persons who were eligible to membership on November 18, 1927, who failed to register and pay the organization fee and penalty thereon and the annual fees of an active member due January 1, 1928.

§ 9. Excusable Inadvertence

- A. The following shall constitute “excusable inadvertence” for a waiver of membership penalties under Article I, section 7.C.5 of these Rules:
1. A request for enrollment as an inactive member is submitted prior to the date of attachment of penalty, but such request is not acted upon until after the date of attachment.

2. A request for waiver of fees or penalties is received by the secretary, or designee, prior to the date of attachment of penalty and is ultimately denied, but such action is not taken until after the date of attachment.
3. The notice of fees due or pending attachment of penalty is not received in a timely fashion by the member or his or her agent or delivered in timely fashion to the member's address of record; this is not a recurrent issue with the member; and payment of the applicable membership fee is received in the State Bar office prior to the day upon which the Board of Governors adopts a resolution recommending to the Supreme Court that the member be suspended for nonpayment of State Bar fees.
4. Payment was mailed in a properly addressed envelope, postage prepaid, and U.S.P.S. post marked not later than the day on which the penalty is attached and is received in the State Bar office prior to the day upon which the Board of Governors adopts a resolution recommending to the Supreme Court that the member be suspended for nonpayment of State Bar fees.
5. An inquiry concerning whether a fee or penalty is due is made prior to the date of attachment of penalty, but such inquiry is not answered until after the date of attachment of such penalty or within 14 days prior thereto, provided that any of the following is submitted within 14 days after the answer to the inquiry is provided:
 - (a) Payment of the applicable membership fee;
 - (b) Request for enrollment as an inactive member; or
 - (c) Request for waiver of membership fee or penalty.
6. The remittance representing payment of fee was mailed in a properly addressed envelope, postage pre-paid, not later than the day on which the penalty is attached, and is not received by the State Bar or its agent, but is thereafter received in the State Bar office prior to the day upon which the Board of Governors adopts a resolution recommending to the Supreme Court that the member be suspended for nonpayment of State Bar fees.

B. Notwithstanding the provisions of paragraph A of this section, the secretary or designee shall not waive penalties for nonpayment of annual membership fees under any of the following circumstances:

1. The notice of fee due or pending attachment of penalty is mailed to the member at his or her address appearing upon the records of the State Bar, and is not received in a timely manner by the member, because the member changed the location of his or her address for State Bar purposes, and failed to notify the State Bar of such change of address in accordance with the provisions of Business and Professions Code Sections 6002.1 and 6068(j).
2. The check representing payment of fee is received and then subsequently returned to the State Bar unpaid by the drawee bank because of insufficient funds in the account upon

which it was drawn, or for other reason, and payment of the fee is not received by the State Bar on or before the date of attachment of penalty for late payment.

3. The Supreme Court order suspending the member for nonpayment of State Bar membership fees has become effective.

§ 10. Suspension For Nonpayment of Membership Fees

Upon the expiration of a period of not less than two months after the date of mailing the notice provided by section 6143 of the Business and Professions Code, the secretary or designee shall deliver to the Board of Governors a list of all members who have failed to make any required payments of membership fees, penalties, or costs, with proof of the mailing of the notice to them. The Board of Governors shall make a recommendation for the suspension of such delinquent members, and a certified copy of recommendation shall thereupon be filed with the Clerk of the Supreme Court. Written notice of such suspension shall be given to a member at his or her last address appearing upon the records of the State Bar. However, it is the duty of every member of the State Bar to keep informed relative to the payment of dues and any order of suspension for nonpayment thereof and failure to give such notice shall not affect the operation of such suspension.

§ 11. Reinstatement of Members Suspended for Nonpayment of Membership Fees

Whenever a member so suspended for nonpayment of membership fees or costs has paid all accrued fees or costs and penalties, the secretary or designee shall thereupon certify the fact of such payment to the Clerk of the Supreme Court.

§ 11.1. Nunc Pro Tunc; Retroactive Reinstatement

A. Provided that the member has complied with the member's duty to maintain on the member's registration records of the State Bar the member's current office or other address for State Bar purposes and that the correct fee and penalty, if any is applicable, has been paid, the secretary or designee shall seek an amendment nunc pro tunc to strike the name of a member from the Supreme Court's Order of Suspension for Nonpayment of Fees in the following circumstances:

- (1) The member's name had been placed on the suspension list by the State Bar in error, including but not limited to such an error resulting from the State Bar's handling of the member's membership status;
- (2) An office of the State Bar received the member's correct fee and penalty, if any was applicable, prior to the suspension date, but Membership Services Operations received the fee and applicable penalty only after the suspension was effective;
- (3) The last address of the member appearing on the membership records of the State Bar was incorrect, having been erroneously recorded by the State Bar, and the notice required by section 6143 of the Business and Professions Code (hereafter "statutory delinquent notice") was sent to the incorrect address by the State Bar;
- (4) The last address of the member appearing on the membership records of the State Bar was correct, but the statutory delinquent notice was sent by the State Bar to an incorrect address;

- (5) The State Bar's remittance bank timely received the member's correct fee and penalty, if any was applicable, but failed to notify the State Bar so it could remove the member's name from the suspension list prior to the effective date of the order of suspension;
- (6) At the time of suspension, the member was deceased.

§ 12. Emeritus Attorneys

A. The Secretary or designee shall waive, as provided in this section, the payment of the annual active membership fees for any member acting exclusively as an emeritus attorney.

B. Definitions

- (1) An "emeritus attorney" is an active member of the State Bar of California, who other than to provide free civil legal services in association with a qualified legal services provider or a lawyer referral service would be retired from and not engaged in the practice of law, and otherwise would be an inactive member; and
 - (a) Has been engaged in the practice of law, has served as a judge, or has engaged in any combination of practice of law and service as a judge in California for a minimum of three out of the eight years immediately preceding the application to participate in the emeritus program, and was admitted to practice law in a jurisdiction in the United States at least ten years prior to filing his or her application for the emeritus program; and
 - (b) Has been a member in good standing of the State Bar of California and has no record of public discipline for professional misconduct imposed at any time within the past 15 years by the California Supreme Court, the State Bar or any other jurisdiction in which the member is admitted and did not resign or retire from the practice of law with disciplinary charges pending; and
 - (c) Neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder.
- (2) A "qualified legal services provider" for the purposes of this rule is a not-for-profit legal services organization which is receiving or is eligible to receive funds from the Legal Services Trust Fund Program as either a "qualified legal services project" as defined in Business and Professions Code sections 6214 and 6214.5 or a "qualified support center" as defined in Business and Professions Code section 6215.
- (3) A "lawyer referral service" for the purposes of this rule is a lawyer referral service certified by the State Bar of California under Business and Professions Code section 6155. An emeritus attorney's participation must be limited to the no-fee panel or pro bono clinic of the service, not the reduced-fee panel or modest means program of the service.

C. Limitations

- (1) Except for the acts and services performed in association with a qualified legal services provider or a certified lawyer referral service, an emeritus attorney shall not otherwise engage in the practice of law, without payment of active membership fees.
- (2) The prohibition against compensation for the emeritus attorney contained in subdivision B(1)(c), above, shall not prevent the qualified legal services provider or certified lawyer referral service from reimbursing the emeritus attorney for actual expenses incurred while rendering services hereunder. The qualified legal services provider or certified lawyer referral service shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

D. Waiver of Active Fees

The Secretary or designee shall waive the annual membership fees upon:

- (1) The filing of a statement by a qualified legal services provider or certified lawyer referral service stating the name of the member applying for emeritus attorney in association with that provider or service, certifying that the emeritus attorney will not be paid any compensation, and agreeing to notify the State Bar within ten days when the association of the emeritus attorney has ceased.
- (2) The filing of a sworn statement by the applicant for emeritus attorney that he or she:
 - (a) Has fulfilled the requirements of paragraphs B(1) (a) and (b) of this section;
 - (b) Has read and is familiar with the Rules of Professional Conduct and provisions of the State Bar Act (Bus. & Prof. Code, §6000 et seq.) relating to the professional duties and obligations of an attorney at law and abide by the provisions thereof;
 - (c) Will neither ask for nor receive compensation of any kind for the legal services authorized hereunder;
 - (d) Has not engaged in the practice of law in the current calendar year and does not intend to practice law except in association with the legal services provider and as provider in this section;
 - (e) If the applicant is currently an inactive member, requests that he or she be enrolled as an active member and that the annual active membership fee be waived as provided in this section.
- (3) Certification by the State Bar that the applicant has been engaged in the practice of law, has served as a judge or has engaged in any combination of practice of law and service as a judge in California for a minimum of three out of the last eight years, has been a member in good standing of the State Bar of California with no record of public discipline for professional misconduct imposed at any time within the past ten years by the California Supreme Court, the State Bar, or any other jurisdiction in which the member is admitted, and did not resign or retire from the practice of law with disciplinary charges pending.

E. Withdrawal of Waiver

- (1) Waiver of active membership fees pursuant to this rule shall be withdrawn upon termination of the association of the emeritus attorney with the qualified legal services provider or certified lawyer referral service, or for good cause.
- (2) Upon withdrawal of waiver, the annual active membership fee for the current year shall become due and payable. If the waiver is withdrawn on or before June 30 of any year, the active membership fee shall be the full active membership fee for the current calendar year, less any inactive membership fee paid by him or her as an inactive member for such year. If the waiver is withdrawn subsequent to June 30, the active membership fee for the current year shall be one-half the full active membership fee for the current calendar year, less any inactive membership fee paid by him or her as an inactive member for such year. If the emeritus attorney upon withdrawal of the waiver does not intend to practice law, he or she may be enrolled as an inactive member upon written request and payment of the inactive fees.

F. Waiver of Eligibility Criteria for Emeritus Attorney Applicants

- (1) In the event an applicant fails to fully comply with each and every one of the requirements in these Rules, but, in the opinion of the Secretary or designee, waiver would be in the best interest of the Emeritus Attorney Pro Bono Participation Program, the Secretary or designee may waive eligibility criteria. The following factors would be relevant when considering a waiver of any of the eligibility criteria: nearness to full compliance with the eligibility criteria; the need for legal services in the geographic area; the availability of pro bono lawyers in the geographic area; whether the emeritus attorney applicant has previously provided pro bono legal services through a qualified legal services provider or certified lawyer referral service; and other factors the Secretary or designee deems relevant.

G. Authority to Amend Rules

The Board Committee on Legal Services has authority to amend rules pertaining to the Emeritus Attorney Pro Bono Participation Program.

§ 13. Suspension of Members for Failure to Comply with Judgment or Order for Child or Family Support

- A. Upon receipt of the certified consolidated list, provided on or about February 1 of each year, from the State Department of Social Services pursuant to Family Code section 17520, the State Bar shall notify those members of the State Bar whose names appear on the list that they will be suspended for noncompliance with a judgment or order for child or family support, unless on or before the 150th day after the February 1 due date for payment of the annual membership fee, as provided in Business and Professions Code, section 6140, subdivision (b), the State Bar has received a release from the local support agency which submitted the name of the member on the certified list. The notice shall include the address and telephone number of the local support agency which submitted the name of the member on the certified list and also inform the member that suspension for noncompliance shall not relieve the member of the obligation to pay the annual membership fee

and that any fee already paid will not be refunded. The notice shall be made personally or by mail to the member's official membership records address.

- B. Upon expiration of the 150 days in subsection A above, the Secretary or designee shall receive a certified copy of a list of all members whose names appear on the certified consolidated list from the State Department of Child Support Services. The Executive Director/Secretary shall make a recommendation for the suspension of each member for whom no release, as that term is used in section 17520 of the Family Code, has been received, and a certified copy of such recommendation shall thereupon be filed with the Clerk of the California Supreme Court. Upon receipt of an order from the California Supreme Court suspending a member pursuant to rule 962 of the California Rules of Court, written notice of such suspension shall be given to a member at his or her official membership records address.

C. Reinstatement of Member Suspended for Noncompliance.

Upon receipt of the appropriate release, the Executive Director/Secretary or designee shall certify the fact of the receipt of such release to the Clerk of the Supreme Court, and the member may be reinstated pursuant to order of the Supreme Court.

- D. If, subsequent to the receipt of a release which results in either removal of a member's name from the Board of Governors' list of members recommended for suspension or the reinstatement of a member in accordance with the provisions of subsection C above, notice is received from the Department of Child Support Services that the member previously released is once again not in compliance with a judgment or order for support, the Executive Director/Secretary or designee shall immediately notify such member that the suspension of his or her license will be recommended to the Supreme Court, such suspension to take effect on a date certain and no later than 30 days from the date of the notice to such member. Once suspended, the member's license shall remain suspended until a new release is issued and the member's reinstatement is ordered by the Supreme Court in accordance with the provisions of subsection C of this section.
- E. Nothing in this section shall be interpreted as relieving the member of the obligation to pay timely his or her annual membership fee.
- F. Pursuant to subdivision (n) of section 17520 of the Family Code, the State Bar may assess an administrative surcharge against a member whose name appears on the certified consolidated list from the State Department of Child Support Services.